

### **AMENDMENTS TO THE DRAWINGS**

Please replace Figures 1 and 2 with the attached Figures. The drawings have been amended to add the text “Telephone Network” to item 160.

### **REMARKS**

Applicant thanks the Examiner for reviewing the previous response on the merits. Reconsideration of this application is respectfully requested.

Claims 1-100 are pending in this application. Claims 1, 9-10, 16-17, 27-29, 36-37, 48, 56-58, 63, 70, 77, 84, 88 and 97 have been amended. Claim 51 was amended in the last response but inadvertently labeled as original. In this office action, claim 51 is marked as “currently amended” in case the last amendment was not entered. Claims 15, 35, 38, 78 and 98 have been canceled. No new claims have been added.

### **Specification**

Examiner objected to the previously submitted amendments to the specification. In this response, Applicant resubmits the amendments in the appropriate form. Applicant respectfully requests that these amendments to the specifications be entered.

### **Claim Objections**

Examiner objected to claims 1, 17 and 97 for reciting “the user” with insufficient antecedent basis. Claims 1, 17 and 97 have been amended to provide sufficient antecedent basis. Withdrawal of the objection is respectfully requested.

### **Drawings**

Examiner objected to Figures 1 and 2 because proper legend for item 160 was missing. In this response, Applicant has submitted replacement Figures 1 and 2 to add the text “Telephone Network” to item 160. Withdrawal of the objection is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 112**

Examiner rejected claims 10, 29, 48 and 68 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses. However, Applicant has amended claims 10, 29, 48 and 68 to clarify that “the rate of the service provider” refers to “the rate of the selected service provider” and not to “a rate of the alternate service provider.”

Withdrawal of the rejection is respectfully requested.

Examiner also rejected claim 27 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claim 27 to clarify that the term “the connection” refers to “a real-time communications connection” of claim 17. Withdrawal of the rejection is respectfully requested.

Examiner also rejected claim 57 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, Examiner stated that the phrase “giving the selected service provider an option to access a database of alternate service providers when the selected provider cannot be reached” is not disclosed by the specification.

Applicant has amended claim 57 to clarify that the method comprises “providing access to a database of alternate service providers when a selected provider cannot be reached.” This phrase is supported, for example, on page 12 in the specification and in Figure 5, as well as in other locations. For example, in one embodiment described in page 12, in case a call should come while a service provider was unavailable, a service provider can choose to refer the call to someone else or to the database. Thus, the subject matter was described in the application as filed and withdrawal of the rejection is respectfully requested.

Examiner also rejected claims 58 and 63 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Claims 58 and 63 have been amended to clarify that the phrase “the service provider” refers to “the selected service provider” of claim 57. Withdrawal of the rejection is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 1-4, 6-7, 17-19, 24, 26-27, 34, 37-40, 42-44, 46, 57-58, 60-64, 77-80, 82-84, 86 and 97-98 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Singh* (U.S. Patent No. 6,389,278), and in view of *Faber* et al (U.S. Patent Application Publication No. 2002/0010608). Applicant respectfully submits that the present claims are patentable over the *Singh* and *Faber*. The cited references do not disclose, suggest or render obvious, either individually or in combination, all of the elements of the Applicant’s claims.

Specifically, claim 1 requires the limitation “wherein the set of criteria is to include a reliability factor.” Applicant submits that neither *Singh* nor *Faber*, alone or in combination, contain this limitation.

As Examiner stated, “*Singh* in view of *Faber* et al failed to teach ‘the pre-established...reliability factor.’” Office Action, October 22, 2004, p. 10. Examiner also stated that *Reece* reads onto the “reliability factor” limitation in disclosing selection of a wireless service provider based upon the strongest signal. Office Action, October 22, 2004, p. 11. However, Applicant submits that the wireless signal strength of *Reece* does not read onto the “reliability factor” of claim 1.

*Reece* is directed towards switching to an optimal wireless service provider. (*Reece*, col. 3, lines 29-30). *Reece* states, “If service is declined, the mobile device attempts to tune its second choice from the information loop time frame with the strongest signal...” (*Reece*, col. 12, lines 53-55). Thus, in *Reece*, a user’s connection to the service provider is dependent on the user’s geographic location (which determines the signal strength) and not on the service provider’s availability. In contrast, the “reliability factor” of claim 1 is based the service provider’s availability.

Therefore, neither *Singh* nor *Faber* nor *Reece*, nor the combination thereof disclose or suggest the claimed limitation of independent claim 1. Independent claims 17, 57 and 97 each

have a similar limitation. Accordingly, the cited references do not render obvious claims 1, 17, 57 and 97.

Claims 2-14, 16, 18-34, 36, 58-76 and 99-100 depend, directly or indirectly, from one of the foregoing independent claims. Accordingly, the cited references also do not render obvious claims 2-14, 16, 18-34, 36, 58-76, 99-100. Withdrawal of the rejection of claims 1-14, 16-34, 36, 57-76, 97 and 99-100 under 35 U.S.C. § 103(a) is respectfully requested.

Claims 37 and 77 require “an alternate service provider pre-selected by the service provider.” Applicant submits that neither *Singh* nor *Faber*, alone or in combination, contain this limitation.

*Singh* is directed towards identifying a service provider from a wireless communicator. (*Singh*, col. 1, lines 55-58). As Examiner noted in the Office Action, in *Singh*, when the initial call is not successfully connected, *Singh* either identifies a geographic location to obtain an alternate service provider list, or obtains from a yellow page directory alternate service providers in the geographic location. (Office Action, Oct. 22, 2004, p. 6). *Singh* does not teach and does not suggest an alternate service provider pre-selected by a service provider.

Likewise, *Faber* does not disclose this limitation. Rather, *Faber* discloses permitting a customer and an available service provider to communicate with each other in real time. (*Faber*, col. 1, para. 0008).

Therefore, neither *Singh* nor *Faber*, nor the combination thereof disclose or suggest the claimed limitation of independent claims 37 and 77. Accordingly, the cited references do not render obvious claims 37 and 77.

Claims 39-56 and 79-96 depend, directly or indirectly, from one of the foregoing independent claims. Accordingly, the cited references also do not render obvious claims 39-56 and 79-96. Withdrawal of the rejection of claims 37, 39-56, 77 and 79-96 under 35 U.S.C. § 103(a) is respectfully requested.

The remaining dependent claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Singh*, and in view of *Faber* et al., and further in view of other references. Specifically, Examiner cited *Salimando* (U.S. Patent No. 6,563,915), *Mangetsu* (U.S. Patent

Publication No. 2002/0095359), *Reece* et al. (U.S. Patent No. 5,915,214), *Nakano* (U.S. Patent Application No. 2002/0193135), *Dillon* (U.S. Patent No. 6,067,561), *Khazaka* et al. (U.S. Patent No. 6,542,732), and *Owen* et al. (U.S. Patent No. 6,611,501).

Applicant submits that these other references also do not disclose or suggest the limitation discussed above missing from *Singh* and *Faber* and/or *Reece*, alone or in combination. Specifically, Applicant submits that these other references do not disclose or suggest the limitation of a reliability factor or the limitation of an alternate service provider pre-selected by the service provider.

Rather, these other references are directed towards other subject matter. *Salimando* is directed towards a barge-in device which automatically interrupts a subscriber's stored information service or telephone call and connects the subscriber with another telephone call. (*Salimando*, col. 1, lines 33-35.) *Mangetsu* is directed towards providing various kinds of electronic dictionaries, databases, application programs, and web pages. (*Mangetsu*, col. 4, para. 0065.) Again, *Reece* is directed towards switching among various mobile cellular telephone service providers available in a given geographic region. (*Reece*, Abstract; col. 6, lines 55-56.) *Nakano* is directed towards a handover between mobile communication base stations. (*Nakano*, col. 3, para. 0037.) *Dillon* is directed towards an electronic mail alert system. (*Dillon*, Abstract.) *Khazaka* is directed towards processing stored data in a wireless communication device. (*Khazaka*, col. 2, lines 37-38.) Finally, *Owen* is directed run-time negotiations in a communications network. (*Owen*, Abstract.)

Accordingly, the cited references do not render obvious the remaining dependent claim. Therefore, withdrawal of the rejection of claims 1-14, 16-34, 36-37, 39-77, 79-97 and 99-100 under 35 U.S.C. § 103(a) is respectfully requested.

**Conclusion**

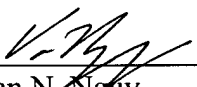
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested.

Pursuant to 37 C.F.R. 1.136(a)(3), Applicants hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

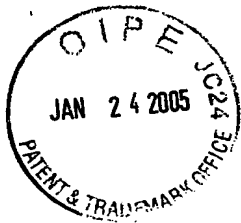
Respectfully submitted,

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Date: 1/24/05

  
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Annotated Sheet

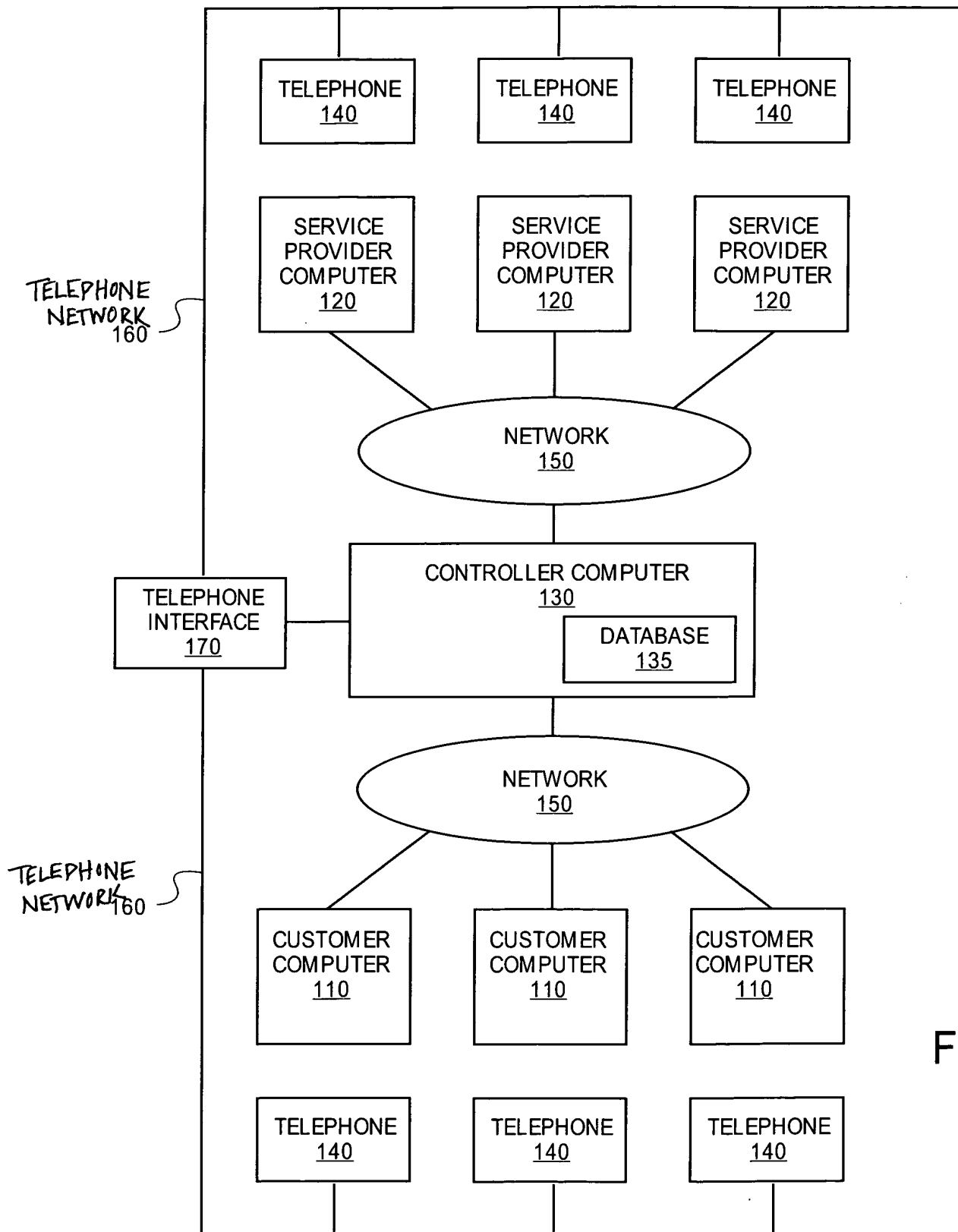
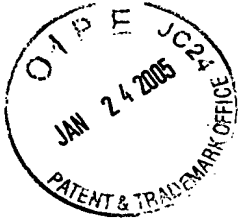


FIG. 1





Annotated Sheet

